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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,646	11/19/2003	Rasmus Villefrance	684-011600-US (PAR)	7660
2512	7590	04/04/2008	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			SMITH, MARCUS	
			ART UNIT	PAPER NUMBER
			2619	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/716,646	Applicant(s) VILLEFRANCE ET AL.	
	Examiner MARCUS R. SMITH	Art Unit 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 18-24 are rejected under 35 U.S.C. 112, first paragraph, for being a single means claim. A single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983).

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 and its dependent claims state that it's a system in the preamble but all claim limitations refer to the data package in the system not the modules in the system.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Art Unit: 2619

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims recite data structures, a packet format. Such data structures do not define any function relationship between the data structure and other claimed aspects. A packet format does not become statutory by being transmitted/received from a module or stored in a computer readable medium.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 18, 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawanaka (US 6,493,340).

with regard to claims 1,18, 23-26 (figures 1, and 3):

A system comprising a plurality of connected modules (data transmission unit, 2) and providing data communication between the connected modules (column 4, lines 1-7), wherein individual ones of said modules are operative to transmit to and receive from one another of said modules a data package,

wherein said data package (see figure 3) is a block of data or a data packet or a datagram, the data package being composed of a sequence of bits arranged in fields, the fields being disposed in a plurality of layered structure, comprising:

a physical layer (Ptp controller, 11 or LAN controller, 9) having a first segment and a second segment encapsulating other ones of the layers in said layered structure, the physical layer being provided by a physical generator in one of said modules and serving to convey a bit stream through a network of said modules (These controllers perform the function layer 1, which it is common knowledge that layer generates and transmits the packets as bit streams to other data transmission unit in the network , column 4, lines 33-39),

a data link layer (Ptp control, 10 or LAN control, 8) comprising a data link layer control section for carrying data link layer control data and a data section for carrying data for said other layers, the data link layer being provided by a data link layer generator in said one module and being enclosed by the segments of said physical layer (These control module perform the function layer 2, which it is common knowledge to have layer 2 being enclosed the physical layers, see OSI reference models for computers. column 4, lines 30-38), and

a transport layer (network layer communication control, 4) enclosed by the data link layer, the transport layer being provided by a transport layer router in said one module and having a connection number field (LSP ID) for identifying an object communicating via said router within said module, the transport layer defining a message in said data section, which message is configured according to a transport

layer protocol (column 4, lines 20-30 and 40-48) and comprises (see figure 4, column 4, lines 48-65):

- a payload (a non header area) and a first header field for format of said payload (a protocol ID),

- a second header field for start of said payload in said message (length indicator),

- a third header field for length of said message (an ID length),

- a fourth header field for version of said transport layer protocol (version field),

and

- a fifth header field for message group identity establishing receiving resource format of said payload (max area address).

Response to Arguments

8. Applicant's arguments filed 3/19/08 have been fully considered but they are not persuasive. The applicant amendments to the independent claims do not overcome rejections under 35 U.S.C. 101 and 112. The claims still recite packet format or data structure as the body or limitations of the claim. The examiner reminds applicant the packet format is non-statutory subject matter.

9. The examiner disagrees with the applicant the Kawanka does teach the claimed invention. The examiner gives the claim the broadest reasonable interpretation, so the Kawanaka teaches the same layers and function discussed the claim, not present specification. Kawanaka's length indicator does not have to serve as the length indicator of the complete message. The examiner uses the length indicator to mark the

end of the header and the start of the payload with teaches claimed second header field.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCUS R. SMITH whose telephone number is (571)270-1096. The examiner can normally be reached on Mon-Thurs: 7:30 am - 5:00 p.m. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MRS 3/25/08
/CHAU T. NGUYEN/
Supervisory Patent Examiner, Art Unit 2619